

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1513, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 2, between lines 22 and 23, begin a new paragraph and insert:
- 2 "SECTION 2. IC 22-3-3-13, AS AMENDED BY P.L.235-1999,
- 3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2001]: Sec. 13. (a) As used in this section, "board" refers to
- 5 the worker's compensation board created under IC 22-3-1-1.
- 6 (b) If an employee who from any cause, had lost, or lost the use of,
- 7 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
- 8 in a subsequent industrial accident becomes permanently and totally
- 9 impaired by reason of the loss, or loss of use of, another such member
- 10 or eye, the employer shall be liable only for the compensation payable
- 11 for such second injury. However, in addition to such compensation and
- 12 after the completion of the payment therefor, the employee shall be
- 13 paid the remainder of the compensation that would be due for such
- 14 total permanent impairment out of a special fund known as the second

1 injury fund, and created in the manner described in subsection (c).

2 (c) Whenever the board determines under the procedures set forth
3 in subsection (d) that an assessment is necessary to ensure that fund
4 beneficiaries, including applicants under section 4(e) of this chapter,
5 continue to receive compensation in a timely manner for a reasonable
6 prospective period, the board shall send notice not later than October
7 1 in any year to:

8 (1) all insurance carriers and other entities insuring or providing
9 coverage to employers who are or may be liable under this article
10 to pay compensation for personal injuries to or the death of their
11 employees under this article; and

12 (2) each employer carrying the employer's own risk;
13 stating that an assessment is necessary. After June 30, 1999, the board
14 may conduct an assessment under this subsection not more than one (1)
15 time annually. Every insurance carrier and other entity insuring or
16 providing coverage to employers who are or may be liable under this
17 article to pay compensation for personal injuries to or death of their
18 employees under this article and every employer carrying the
19 employer's own risk, shall, within thirty (30) days of the board sending
20 notice under this subsection, pay to the worker's compensation board
21 for the benefit of the fund, an assessed amount that may not exceed one
22 and one-half percent (1.5%) of the total amount of all worker's
23 compensation paid to injured employees or their beneficiaries under
24 IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the
25 due date of such payment. For the purposes of calculating the
26 assessment under this subsection, the board may consider payments for
27 temporary total disability, temporary partial disability, permanent total
28 impairment, permanent partial impairment, or death of an employee.
29 The board may not consider payments for medical benefits in
30 calculating an assessment under this subsection. If the amount to the
31 credit of the second injury fund on or before October 1 of any year
32 exceeds one million dollars (\$1,000,000), the assessment allowed
33 under this subsection shall not be assessed or collected during the
34 ensuing year. But when on or before October 1 of any year the amount
35 to the credit of the fund is less than one million dollars (\$1,000,000),
36 the payments of not more than one and one-half percent (1.5%) of the
37 total amount of all worker's compensation paid to injured employees or
38 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar

year next preceding that date shall be resumed and paid into the fund.
All entities liable for and paying an assessment under this subsection shall be entitled to a credit against the assessment for the payments made the same year on which the assessment was based. Such payments shall have been made to an employee injured prior to January 1, 2002, who sustained a later period of disability entitling the employee to an increase in the average weekly wage, as set forth in IC 22-3-3-8. Any credit due shall be computed by the following formula:

STEP ONE: Determine the amount of compensation the employee actually received based on the average weekly wage as of the last day worked prior to the later period of disability.

STEP TWO: Determine the amount of compensation the employee would have received based on the average weekly wage at the time of the original compensable injury.

STEP THREE: Determine the greater of zero (0) or the result of:

(1) The STEP ONE amount; minus

(2) The STEP TWO amount.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the

1 computation of agent commissions or premium taxes. However, an
2 insurer may cancel a worker's compensation policy for nonpayment of
3 the premium surcharge. A cancellation under this subsection must be
4 carried out under the statutes applicable to the nonpayment of
5 premiums.

6 (f) The sums shall be paid by the board to the treasurer of state, to
7 be deposited in a special account known as the second injury fund. The
8 funds are not a part of the general fund of the state. Any balance
9 remaining in the account at the end of any fiscal year shall not revert
10 to the general fund. The funds shall be used only for the payment of
11 awards of compensation and expense of medical examinations or
12 treatment made and ordered by the board and chargeable against the
13 fund pursuant to this section, and shall be paid for that purpose by the
14 treasurer of state upon award or order of the board.

15 (g) If an employee who is entitled to compensation under IC 22-3-2
16 through IC 22-3-6 either:

- 17 (1) exhausts the maximum benefits under section 22 of this
18 chapter without having received the full amount of award granted
19 to the employee under section 10 of this chapter; or
20 (2) exhausts the employee's benefits under section 10 of this
21 chapter;

22 then such employee may apply to the board, who may award the
23 employee compensation from the second injury fund established by this
24 section, as follows under subsection (h).

25 (h) An employee who has exhausted the employee's maximum
26 benefits under section 10 of this chapter may be awarded additional
27 compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the
28 employee's average weekly wage at the time of the employee's injury,
29 not to exceed the maximum then applicable under section 22 of this
30 chapter, for a period of not to exceed one hundred fifty (150) weeks
31 upon competent evidence sufficient to establish:

- 32 (1) that the employee is totally and permanently disabled from
33 causes and conditions of which there are or have been objective
34 conditions and symptoms proven that are not within the physical
35 or mental control of the employee; and
36 (2) that the employee is unable to support the employee in any
37 gainful employment, not associated with rehabilitative or
38 vocational therapy.

- 1 (i) The additional award may be renewed during the employee's total
2 and permanent disability after appropriate hearings by the board for
3 successive periods not to exceed one hundred fifty (150) weeks each.
4 The provisions of this section apply only to injuries occurring
5 subsequent to April 1, 1950, for which awards have been or are in the
6 future made by the board under section 10 of this chapter. Section 16
7 of this chapter does not apply to compensation awarded from the
8 second injury fund under this section."
9 Renumber all SECTIONS consecutively.
 (Reference is to HB 1513 as introduced.)

and when so amended that said bill do pass.

Representative Liggett